

6Gx53-1.009 SCHOOL BOARD POLICIES:

The School Board of Polk County, Florida constitutes the legislative body of the Polk County School District. Its legislative authority is granted by statute to be exercised for the adoption of written policies pursuant to the provisions of Chapter 120, Florida Statutes. The School District is governed by School Board Policy adopted as provided by law.

1. School Board Policies shall be reduced to writing and shall be adopted as rules to be contained in the policy manual of the School Board of Polk County, Florida, hereinafter referred to as the policy manual.

2. Required Rule Adoption

A. Any policy of the School District that constitutes an agency statement of general applicability that implements, interprets or prescribes law or policy or describes the procedure or practice requirements of the School District shall be adopted as a rule by the School Board pursuant to the procedures set forth herein.

B. Any form that imposes any requirement or solicits any information not specifically required by statute or by existing rule shall also constitute a rule that must be adopted by the School Board.

C. Any amendment or repeal of an existing rule must also be adopted by the School Board pursuant to these procedures.

D. The following are not rules that must be adopted by the School Board:

1). Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the School Board

2). Legal memoranda or opinions issued to the School Board by the Attorney General or the School Board attorney

prior to their use in connection School Board action

3). The preparation or modification of the School District budget

4). Contractual provisions reached as a result of collective bargaining

5). Curricula

E. Each rule adopted by the School Board shall contain only one subject and shall be accompanied by a reference to the specific rulemaking authority pursuant to which the rule was adopted and a reference to the section or subsection of Florida Statutes or the Laws of Florida being implemented, interpreted, or made specific.

F. Any rule may incorporate material by reference but only as such material exists on the date the rule is adopted. For purposes of such a rule, changes in the material that has been incorporated shall have no effect with respect to the rule unless the rule is amended to incorporate such material as changed.

G. Any proposed amendment to a rule shall set out the amended rule in full with deletions shown by strikethroughs and additions shown by underlining

3. Rule Adoption Procedure

A. Board or by the adoption, amendment or repeal of any rule may be initiated by the Superintendent on his or her own initiative, or by the Superintendent as directed by the School Board, or by any person having a substantial interest in the School Board rule.

B. When initiated by the Superintendent, the Superintendent shall prepare an agenda item for presentation to the School Board. The agenda item shall contain the full text of the proposed rule with the Superintendent's recommendation as to whether the School Board should agree to consider the adoption

of the proposed rule and proceed with the required public notice and hearing.

C. If a person having a substantial interest in the School Board rule desires to initiate the rule adoption procedures, the person shall file with the clerk of the School Board a petition for the School Board to adopt, amend or repeal a rule and shall specify the proposed rule and the action requested. Not later than 30 calendar days after the date of filing a petition, the Superintendent shall submit the petition as an agenda item for action by the School Board together with the Superintendent's recommendation as to whether or not the School Board should deny the request to consider the adoption of the rule or should agree to further consider the rule and provide the required notice and public hearing. If the School Board decides not to consider adoption of the rule, it will provide a written statement of the reasons for denial.

D. The School Board attorney shall review and approve each proposed rule as to form and legality.

E. The School Board Policy Committee shall review each proposed rule.

F. The initial consideration by the School Board of a proposed rule shall be known as the first reading.

G. If the School Board decides not to further consider a proposed rule, the rule adoption procedures shall be deemed completed.

H. If the School Board decides to consider the adoption of the proposed rule it shall direct the Superintendent to give notice of the School Board's intended actions as follows:

- 1). By publication in a newspaper of general circulation in Polk County
- 2). By mail to all persons who have made requests of the School Board for advance notice of its proceedings and to

organizations representing persons affected by the proposed rule.

3.) By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

I. The notice of intended action shall set forth a short and plain explanation of the purpose and effect of the proposed rule, and the specific legal authority under which its adoption is authorized. The notice shall specify how the complete text of the proposed rule may be obtained.

J. School Board consideration of the proposed rule cannot occur until at least 21 days after the publication, mailing and posting have all occurred.

K. The Superintendent shall prepare a statement of estimated regulatory costs if required under Section 120.541, Florida Statutes. The Superintendent may, on his or her own initiative or at the direction of the School Board, prepare a statement of estimated regulatory costs regarding any proposed policy, repeal or amendment, in the absence of a statutory requirement.

L. Any substantially affected person may seek an administrative determination of the invalidity of any proposed rule on the ground that the proposed rule is an invalid exercise of delegated legislative authority. The proceedings for that administrative determination shall be controlled by the Administrative Procedure Act.

M. The School Board shall schedule a public hearing on the proposed rule not less than 21 days after the notification has been completed. The hearing shall constitute the second reading. The School Board shall consider any material pertinent to the issues under consideration submitted to the School Board within 21 days after the date of publication of the notice or as submitted at the public hearing, and such

materials shall be made a part of the record of the rulemaking proceeding.

N. After the required notice has been accomplished and prior to the adoption of the rule, the School Board may withdraw the rule in whole or in part or may:

- 1). Make such changes in the rule as are supported by the record of the public hearing held on the rule;
- 2). Make technical changes which do not affect the substance of the rule; and
- 3). Make changes in response to written material relating to the rule received by the School Board within 21 days after the notice and made a part of the record of the proceeding.

O. The rule will become effective when adopted by the School Board or on a later date as specified in the rule. After a rule has become effective it may be repealed or amended only through the regular rulemaking procedures.

4. School Board Policy Committee

A. In order for the School Board to carry out its duties and responsibilities in this significant area, the Board Chair shall appoint a Policy Committee.

- 1). Membership: The membership of the Policy Committee shall be representative of the entire school community so that each segment thereof can be afforded an opportunity for input into proposed policy prior to its presentation to the School Board for adoption. This provision shall not be construed as a limitation of the statutory authority granted to the Superintendent and School Board members to recommend policy directly to the School Board.

2) Proposed Policies: In considering proposed policies, the Policy Committee shall be charged with the duty of determining the following:

a) The statutory authority for adoption of a proposed policy;

b) State Board of Education Rules that authorize or mandate adoption of a proposed policy; and

c) Whether or not the implementation of a proposed policy would result in discrimination against any segment of the school community, recognizing that discrimination may be patent, latent, intentional unintentional, or disguised.

B. Preservation of Unitary School System: All School Board policies should be devised to guarantee equal opportunity and equal access for all segments of the school community in order to insure the continued operation of a unitary school system under the provisions of law.

5. Emergency Rules

A. If the School Board finds that an immediate danger to the public health, safety or welfare requires emergency action, the School Board may adopt any rule necessitated by the immediate danger by any procedure which is fair under the circumstances and necessary to protect the public interest, provided that:

1) The procedure provides at least the procedural protection given by other

statutes, the Florida Constitution, or the United States Constitution;

2) The School Board takes only that action necessary to protect the public interest under the emergency procedure; and

3) The School Board publishes in writing at the time of or prior to its action the specific facts and reasons for finding an immediate danger to the public health, safety or welfare and its reasons for concluding that the procedure used is fair under the circumstances

B. An emergency rule adopted under this provision may not be effective for a period longer than 90 days and shall not be renewable, except during the pendency of a challenge to proposed rules addressing the subject of the emergency rule. The School Board may ratify the emergency rule by taking action under the normal rulemaking procedures.

6. A copy of the compiled rules of the School Board as contained in the policy manual shall be available for inspection in the Superintendent's office, each school, and other locations as determined by the Superintendent. The Superintendent shall also cause the policy manual to be made available on computer diskette and online through the School Board website.

7. A copy of the policy manual of the School Board of Polk County, Florida, or any part thereof, may be purchased by the public. The fee for photocopying shall be in accordance with School Board rules. A copy of the entire policy manual may be obtained at no more than cost.

8. Editorial changes: The Superintendent is authorized to make appropriate editorial changes to any rule to correct errors or reflect changes or updates in the numbering of statutes or regulations, so long as it does not affect the meaning of the rule. Any changes made by the Superintendent shall be reported to the School Board at the next regular meeting.

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9. A copy of any rule change or editorial change shall be made available by the Superintendent to each holder of the compilation who shall be responsible for entering all changes immediately upon receipt.

Statutory Authority: Florida Statutes, Chapter 120; and Sections 1001.32; 1001.41; 1001.42; 1001.43

Laws Implemented: Florida Statutes 1001.49 and 1001.51

Adopted: September 12, 1995

Amended:

March 16, 2004